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10/540,326	01/25/2006	Sean Geoffrey Maddox	CPG0188DB	1635

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EXAMINER

BOSWELL, CHRISTOPHER J

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3673

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/540,326	Applicant(s) MADDOX ET AL.	
	Examiner CHRISTOPHER BOSWELL	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31 and 39 is/are allowed.
- 6) ☒ Claim(s) 15-23, 27, 28 and 32 is/are rejected.
- 7) ☒ Claim(s) 24-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "an article" in lines 3, 4, 7 and 11. It is unclear as to how many different articles are being claimed. To further prosecution, the examiner believes there to be only one article.

Claim 16 recites the limitation "an article" in lines 3, 4, 7 and 12. It is unclear as to how many different articles are being claimed. To further prosecution, the examiner believes there to be only one article.

Claim 15 recites the limitation "a magnetic security device" in lines 1 and 18. It is unclear as to how many different magnetic security devices are being claimed. To further prosecution, the examiner believes there to be only one magnetic security device.

Claim 16 recites the limitation "a magnetic security device" in lines 1 and 16. It is unclear as to how many different magnetic security devices are being claimed. To further prosecution, the examiner believes there to be only one magnetic security device.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15-21 and 27-28 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Number 6,880,372 to Kim.

Kim discloses an apparatus (60) for releasing a magnetic security device (2), the apparatus having a first portion (base of element 60 where magnet 62 is disposed) for locating an article (1) in a first direction and a second portion (wall of element 60 where magnet 63 is disposed) for locating the article in a second direction substantially perpendicular to the first direction, the first and second portions define a receptacle (61) configured and adapted to receive the article so as to physically restrain the article in the first and second directions as it is brought into contact with the first and second portions, while leaving the article unrestrained in at least a third direction substantially perpendicular to the first and second directions (the first and second portions providing alignment of an article in the vertical and lateral directions while allowing the article to be unrestrained in the axial direction), the receptacle being configured and adapted to receive the article having first and second surfaces that are wider in the third direction than the apparatus (the article extends beyond the apparatus in the third direction; figure 10A), and at

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least one of the first and second portions including magnetic release means (62 and 63) arranged to assist in locating the initially misaligned article into alignment in the third direction by magnetic attraction of the security device as the article is brought into contact with the at least one of the first and second portions (figures 10A and 10B), the magnetic release means being arranged to provide a first magnetic force (figure 10B) in a first direction and a second magnetic force (figure 10B) in the second direction for releasing the magnetic security device (figure 11) from the article, as in claim 15.

Kim also discloses the first portion defines a first plane (plane defined by the first portion) and the second portion defines a second plane (plane defined by the second portion) substantially perpendicular to the first plane (figure 9), as in claim 17, in which the first and second planes define a receptacle (61) having a substantially L-shaped cross-section (the L-shape being defined by the base of the channel and the rear wall where element 64 is disposed), as in claim 18, as well as the first and second portions respectively comprise a base portion (the portion where element 62 is disposed) and a top portion (the portion where element 63 is disposed) upstanding therefrom, as in claim 19, wherein the first and second portions are connected together by means of at least one mutually engageable projection and recess (the corner defining the transition between the bottom surface and the rear surface), as in claim 20, and a method of releasing a magnetic security device comprising the steps of providing apparatus in claim 15 (60) and presenting an article with a magnetic security device thereto to release the magnetic security device therefrom (column 5, line 59-column 6, line 32), as in claim 28.

Kim further discloses a first magnet (62) mounted in the first portion provides the magnetic force in direction and a second magnet (63) mounted in the second portion provides the magnetic force in the second direction, as in claim 21.

Kim additionally discloses an apparatus (60) for releasing a magnetic security device (2), the apparatus having a first portion (base of element 60 where magnet 62 is disposed) for locating an article (1) in a first direction and a second portion (wall of element 60 where magnet 63 is disposed) for locating the article in a second direction substantially perpendicular to the first direction, wherein the first and second portions define an L-shaped receptacle (the L-shape being defined by the base of the channel and the rear wall where element 64 is disposed) configured and adapted to restrain the article in the first and second directions as it is brought into contact with the first and second portions (the first and second portions providing alignment of an article in the vertical and lateral directions while allowing the article to be unrestrained in the axial direction), while leaving the article unrestrained in at least a third direction (the open end of 60 allows the article to be moved unrestrained in the third direction) substantially perpendicular to the first and second directions, the L-shaped receptacle being capable of receiving articles of a wide range of shapes and sizes (capable of receiving any article that can be placed in the receptacle, where the axial length be any of a various length) having a security device installed adjacent two substantially perpendicular sides thereof (figures 9 and 11), the receptacle being configured and adapted to receive an article having first and second surfaces that are wider in the third direction than the apparatus (figure 10A), and at least one of the first and second portions including magnetic release means (62 and 63) arranged to provide a first

magnetic force (via 62) in the first direction and a second magnetic force (via 63) in the second direction for releasing the magnetic security device (figure 11) from the article, as in claim 16.

Kim also discloses at least one of the first and second portions including magnetic release means (62 and 63) arranged to assist in locating the article in a third direction substantially perpendicular to the first and second direction by magnetic attraction of the security device as the article is brought into contact with the at least one of the first and second portions so as to align the magnetic security device with the magnetic release means (column 5, line 59-column 6, line 32), as in claim 27.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-23 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim, as applied above, in view of U.S. Patent Number 6,084,498 to Stelter et al.

Kim teaches of an apparatus (60) for releasing a magnetic security device (2) from an article (1), the apparatus comprising a first portion (base of element 60 where magnet 62 is disposed) for locating the article in a first direction and a second portion (wall of element 60 where magnet 63 is disposed) for locating the article in a second direction substantially perpendicular to the first direction (figure 9), the first and second portions forming a receptacle (61) for receiving the article but physically restraining the article in the first and second

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directions as it is brought into contact with the first and second portions (restrained by the base and wall), while leaving the article unrestrained in at least a third direction substantially perpendicular to the first and second directions (allowing the article to be moved in an axial direction of the article; figure 9), at least one of the first and second portions including magnetic release means (62 and 63) arranged to assist in locating an initially misaligned article into alignment in the third direction by magnetic attraction of the security device as the article is brought into contact with the at least one of the first and second portions (column 5, line 59-column 6, line 32), the magnetic release means being arranged to provide a first magnetic force in the first direction (via magnet 62) and a second magnetic force in the second direction (via magnet 63) for releasing a magnetic security device from the article, wherein the magnetic release means include a first magnet assembly (62) and a second magnet assembly (63). However, Kim does not disclose the first or second magnets are comprised of a plurality of magnets.

Stelter et al. teach of a magnetic decoupler (10) for releasing a magnetic security device (figures 5 and 6) consisting of a magnetic release means (11, 12, 13, 14, 15 and 16), Where the magnetic release means includes a central magnet (11 and 16) and a plurality of peripheral magnets (12, 13, 14 and 15) mounted adjacent to the central magnet (figure 3) such that the magnetic axis of each peripheral magnet of the plurality of peripheral magnets are substantially perpendicular to the magnetic axis of the central magnet (column 4, lines 9-48).

Because both Kim and Stelter et al. teach methods for unlocking magnetic security devices, it would have been obvious to one with ordinary skill in the art to substitute the magnetic assembly, where the assembly consists of a plurality of magnets, in Stelter et al. with

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the single magnets in Kim to achieve the predictable result of improving the magnetic strength of the magnetic release means from the orientations of the magnets that increase the axial magnetic field gradient by superposition of the magnetic fields of each individual magnets.

Allowable Subject Matter

Claims 29-31 are allowed.

Claims 24-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The claims are allowable over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that of a closure means that prevents an article from being presented to the magnetic release means.

Response to Arguments

Applicant's arguments with respect to claims 15-23, 27-28 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to magnetic release means for security devices:

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U.S. Patent Number 6,832,498 to Belden, Jr. et al., U.S. Patent Number 6,601,702 to Byrne et al., U.S. Patent Number 6,467,318 to Gattiker, U.S. Patent Number 6,082,156 to Bin, U.S. Patent Number 5,988,376 to Lax, U.S. Patent Number 5,904,246 to Weisburn et al., U.S. Patent Number 5,535,606 to Nguyen et al., U.S. Patent Number 4,527,310 to Vandebult.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BOSWELL whose telephone number is (571)272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Boswell
Examiner
Art Unit 3673

/Patricia L Engle/
Supervisory Patent Examiner,
Art Unit 3673

CJB /cb/
May 7, 2008